

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

Case No. 1:22-cr-154

MICHAEL JOHN BATT,

Defendant.

1

*SENTENCING HEARING*

BEFORE THE HONORABLE JANET T. NEFF  
United States District Judge

*Lansing, Michigan, Wednesday, August 16, 2023*

15 APPEARANCES:

For the Plaintiff: MR. PATRICK JAMES CASTLE  
330 Ionia Avenue, NW  
P.O. Box 208  
Grand Rapids, MI 49503

For the Defendant: DAMIAN D. NUNZIO  
29 Pearl Street NW  
Suite 415  
Grand Rapids, MI 49503

REPORTED BY: GENEVIEVE A HAMLIN, CSR-3218, RMR, CRR  
Federal Official Court Reporter  
110 Michigan Avenue NW  
Grand Rapids, MI 49503

1 Grand Rapids, MI

2 August 16, 2023

3 11:05 a.m.

4 *PROCEEDINGS*

5 THE CLERK: All rise, please. Hear ye, hear ye, hear  
6 ye. The United States District Court for the Western District  
7 of Michigan is now in session. The Honorable Janet T. Neff,  
8 United States District Judge, presiding.

9 All persons having business before this Court, draw  
10 near, give attention, and you shall be heard. God save these  
11 United States and this Honorable Court. Court is now in  
12 session. Please be seated.

13 THE COURT: Good morning, everybody.

14 MR. NUNZIO: Good morning.

15 THE COURT: This is the date and time for sentencing  
16 in case number 1:22-cr-154, the United States of America  
17 versus Michael John Batt.

18 May I have appearances and introductions, please?

19 MR. CASTLE: Good morning, Your Honor. Patrick  
20 Castle on behalf of the United States.

21 THE COURT: Thank you.

22 MR. NUNZIO: Good morning, Your Honor. Damian Nunzio  
23 on behalf of the defendant, Michael John Batt, who is to my  
24 left, Your Honor.

25 THE COURT: Thank you. On April 25, 2023, Mr. Batt

1 appeared before Magistrate Judge Phillip Green and entered a  
2 guilty plea to Count 1 of a two count indictment which also  
3 includes a forfeiture count.

4 Count 1 charges sexual exploitation and attempted  
5 sexual exploitation of a child, that offense being contrary to  
6 18 USC 2251(a) and (e).

7 There is a mandatory 15 year minimum sentence with  
8 that crime to a maximum of 30 years imprisonment and a maximum  
9 \$250,000 fine.

10 The offense behavior can be fairly summarized as  
11 follows: There's a minimal factual basis of the crime at  
12 paragraph 8 of the plea agreement and it reads as follows:

16 On September 19, 2022, defendant used his IPhone,  
17 which was manufactured in China, to take photographs of child  
18 one who was three years old. Two of the photographs depict  
19 lascivious exhibition of child one's anus and genitals.

20 On September 20, 2022, the defendant distributed  
21 those two photographs over the internet, and just for  
22 clarification purposes I want to also put on the record this  
23 from the pre-sentence report, for guideline purposes Mr. Batt  
24 is responsible for an offense against a minor victim who had  
25 not attained age 12 for the offense involving a sexual act or

1 sexual conduct -- contact or knowingly engaging in  
2 distribution of material portraying a toddler and for being  
3 the parent of the minor involved in the offense.

4 The magistrate judge's report and recommendation was  
5 adopted on May 11, 2023. There is a written plea agreement in  
6 this case which I accept at this time, and I find that the  
7 charge pled to adequately reflects the seriousness of the  
8 defendant's actual offense behavior.

9 There is also a pre-sentence report.

10 Mr. Castle, does the government have any issue with  
11 the factual recitation in the report?

12 MR. CASTLE: No, Your Honor.

13 THE COURT: Thank you. Mr. Nunzio, on behalf of the  
14 defendant, any issue with the facts as set out in the report?

15 MR. NUNZIO: No. Thank you, Your Honor.

16 THE COURT: Thank you. Mr. Batt, a couple of  
17 questions for you. Would somebody please pull that microphone  
18 a little bit closer? Thank you.

19 Mr. Batt, have you read the pre-sentence report?

20 THE DEFENDANT: Yes.

21 THE COURT: Have you discussed it carefully and  
22 thoroughly with your attorney, Mr. Nunzio?

23 THE DEFENDANT: Yes.

24 THE COURT: As you sit here in the courtroom this  
25 morning is there anything about the report that you either

1                   don't understand or about which you have any question?

2                   THE DEFENDANT: No.

3                   THE COURT: Now, you have retained Mr. Nunzio to  
4                   represent you, as is your right. If you had been indigent,  
5                   you could have requested appointed counsel. That would have  
6                   been your right, too, but in any event, have you been  
7                   satisfied with the work that Mr. Nunzio has done on your  
8                   behalf in this case?

9                   THE DEFENDANT: Yes.

10                  THE COURT: Okay. The pre-sentence report includes a  
11                  calculation of the guidelines and the guideline advisory  
12                  ranges as follows:

13                  The offense level is 43. Criminal history category  
14                  is computed at one based on zero criminal history category  
15                  points, and those two calculations place this case in Zone D  
16                  of the grid where the advisory range for incarceration is  
17                  life. However, as noted earlier, there is a 30-year maximum  
18                  potential incarceration penalty in this case.

19                  The supervised release range is five years to life.  
20                  The fine range is 50,000 to \$250,000. Restitution has at  
21                  least tentatively been calculated at \$19,000.

22                  There is a special assessment which is mandatory of  
23                  \$100, but also in this case we have the potential for a \$5,000  
24                  special assessment under the Justice for Victims of  
25                  Trafficking Act and a potential \$50,000 assessment under the

1 Child Pornography Victim Assistance Act of 2018.

2 There are no objections to scoring in this case, and  
3 my calculations are the same as the pre-sentence writer's.

4 Offense level 43, criminal history category one, advisory  
5 range for custody, 360 months; advisory range for supervised  
6 release, five years to life; advisory range for fine, 5,000 to  
7 \$250,000; restitution at \$19,000; a special assessment of \$100  
8 along with the potential assessments for the juveniles with --  
9 I'm sorry, the Justice for Victims of Trafficking and the  
10 Child Pornography Victim Assistance Act of 2018.

11 There have been no motions for departure under the  
12 guidelines and, again, the advisory ranges are for  
13 incarceration, 360 months, for supervised release, five years  
14 to life, the fine range 50,000 to \$250,000.

15 Counsel, are you in agreement with the accuracy of  
16 those calculations? Mr. Castle?

17 MR. CASTLE: Yes, Your Honor.

18 THE COURT: Thank you. Mr. Nunzio?

19 MR. NUNZIO: Yes, Your Honor.

20 THE COURT: Thank you. Mr. Nunzio, are you ready for  
21 your allocution?

22 MR. NUNZIO: Yes, Your Honor.

23 THE COURT: Please come --

24 MR. NUNZIO: Do you want me to come to the podium  
25 with Mr. Batt?

1 THE COURT: Yes.

2 MR. NUNZIO: Thank you. Come on. Your Honor, if it  
3 pleases the Court, at this time Mr. Batt, who I've known now  
4 for close to a year since this matter had started, his family,  
5 friends, there are two priests and a decan in the court who  
6 undeniably show their love and respect for Michael, and in no  
7 way do I want this Court to think that we're minimizing  
8 anything that took place here. He plead guilty. He accepted  
9 responsibility, and he knows he has to be punished.

10 You know, in our request for downward variance, Your  
11 Honor, we had put in at least references to the type of person  
12 Michael is and Michael was during a period of time prior to  
13 when this event took place, and I've come to know him for the  
14 multiple, multiple visits that I've had with him at the  
15 Newaygo County jail and I've always found him to be courteous,  
16 cordial, remorseful, repentant in his way, and he does have  
17 the love and affection of a very successful family, doctors,  
18 lawyers, other successful people in the family, and there is  
19 no rational explanation regarding why or what he did with  
20 respect to this. It's just not rational to sit up here and  
21 say he did it because of this reason or that reason. That  
22 was, undeniably, a selfish act on his part. It is torrid. It  
23 is just not kind. It's inappropriate, just to use a few  
24 words.

25 But having practiced for many years, mostly down the

1 street in Kent County courthouse, I -- there is just no  
2 rational explanation for why someone would do this, especially  
3 in light of the wonderful family that I've met over the past  
4 year or close to the last year. And the sentencing guidelines  
5 are just high. They're horrific. They're accurate, but  
6 they're horrific. There is a mandatory minimum of 15 on this,  
7 and the question is -- that Michael and I have been talking  
8 about is, you know, what's the balance? What's the Court  
9 going to do? What's the right thing to do? And he knows he  
10 has to be punished and he knows he has to be punished for a  
11 long period of time. That's without question, Your Honor.  
12 But with the letters of recommendation, the character  
13 references that he received, there is still potential for his  
14 life if he has the opportunity to get out at some point to  
15 help cure what he turned to bad. He's lost his girls. He's  
16 lost his wife, his family, respect, reputation. It's just --  
17 it was -- it was a cascading event that just tumbled into  
18 where we are here today.

19 You know, you talk to family members, and I know the  
20 Court sees them here today, and friends, and how do you  
21 explain to them why or what he did? And there is no  
22 explanation. There is no rational explanation other than it  
23 was wrong, it is wrong, and that's why, you know, the  
24 legislature had put this kind of time frame on these cases to  
25 let people know, let the community know, let the United States

1 know that this conduct is just unacceptable in every form.  
2 Every form. And I'm not going to sit up here and say he  
3 didn't kill anybody, he didn't do this, he didn't do that,  
4 because that's just -- that's just another dimension that  
5 doesn't even apply to this case. He knows what he did was  
6 wrong, and he accepted responsibility for it.

7                   What we're asking the Court to do is just consider  
8 and fashion a sentence that he will have the opportunity to  
9 join up with his family sooner rather than later, and I use  
10 those words specifically, sooner rather than later. The Court  
11 will decide what sooner and what later is, but we're not going  
12 to minimize but apologize for the conduct that he had  
13 committed. We're not giving any explanation other than it was  
14 wrong and he knows he has to be punished for it.

15                  His family is just absolutely devastated over this.  
16 The people I've talked to and met over the past close to a  
17 year, just devastated, and their hope is that he gets out  
18 sooner rather than later so that he can at least start on  
19 anew, start afresh, learn from not a mistake but a wrongful  
20 act. I know the Court hears a lot that people come here  
21 before the Court and say, I made a mistake, what I did -- no,  
22 this is not a mistake. This was an intentional wrongful act  
23 by my client. Nothing short of that.

24                  I know he wants to make a few words to the Court  
25 regarding his intentions today as they have been for the past

1 close to a year since last October about his remorse, his  
2 sorrowfulness, what he's done to his family, both his  
3 immediate family and the family in the courtroom today so the  
4 Court has an understanding of there is rehabilitation, there  
5 is -- there is penance. The question is how long, how severe,  
6 and we're just hoping the Court takes into consideration some  
7 of the good things that have been said on his behalf when it  
8 fashions the sentence for Mr. Batt. Thank you, Your Honor.

9 THE COURT: Thank you, Mr. Nunzio. Mr. Batt, as  
10 indicated by Mr. Nunzio, at this point in time you have the  
11 right to speak on your own behalf to tell me anything you  
12 think I should know about you or about what you've done before  
13 I pass sentence in this case, so let me hear what you have to  
14 say.

15 MR. NUNZIO: Tell her from the heart.

16 THE DEFENDANT: I have --

17 MR. NUNZIO: Speak loud.

18 THE DEFENDANT: I have no explanation for what I've  
19 done. It was wrong. I know it was wrong. I've devastated my  
20 family, you know, my kids, my wife, all my brothers and  
21 sisters, all my friends, family, people that have known me.  
22 I've disappointed them. Myself, I've disgusted myself, and I  
23 hope that I can make it up to them, that they'll see me the  
24 way that I was and see the person that I am and want to be.

25 THE COURT: Well, who is the person that you are?

1 THE DEFENDANT: I was a hard worker, a loving father,  
2 I worked within the community. I always did my best. I  
3 always helped people. I helped whoever I could that was in  
4 need. I tried never to pass judgment on anybody. I was  
5 always there willing to help with whatever anybody needed.

6 It would be very beneficial to me to seek therapy to  
7 help me work through, you know, these mental problems that  
8 caused me to act the way that I did to try and figure out any  
9 sort of explanation for why, to help through the emotional  
10 problems of, you know, destroying my family and my extended  
11 family and all of my friendships.

12 THE COURT: You have to know, Mr. Batt, that lots of  
13 people come through this courtroom and the other courtrooms in  
14 this building having committed wrongful, illegal acts, and the  
15 one that you have committed stands out as the most appalling  
16 of all. As parents we owe our children a lot beyond the  
17 basics of food and a roof over their heads and all of that.  
18 We owe them a sense of safety and trust, and that I think is  
19 why this offense is so abhorrent to just about everybody, and  
20 we'd like to know why dads do this kind of thing, and if you  
21 don't know, I'm not sure the rest of us can figure it out  
22 either, but we do know that society looks down on this kind of  
23 crime, and we see what the sentencing guidelines tells us is  
24 appropriate for punishment, but if there's anything more you'd  
25 like to share, please do so.

1 THE DEFENDANT: Yes. I would -- I would like to  
2 apologize to my wife -- my ex-wife and my children. They are  
3 a little piece of my soul that I will never get back, and I  
4 could never begin to make up for what I did to them. I miss  
5 them dearly. I think about them every day. I pray for them  
6 every day. They are -- they are something that was my life  
7 and I wanted to do no wrong to them and yet I did, and I have  
8 to pay for that, and I have to hope that they will be okay,  
9 that they will be able to live out the rest of their lives in  
10 relative comfort and success, and I can always look forward to  
11 the fact that they will, you know, hopefully be successful in  
12 that life.

13 There are no words that I could say to them that  
14 would truly cover an apology. I can just offer the words I'm  
15 sorry for what I've done and hope that they can glean further  
16 meaning from them.

17 THE COURT: Thank you. You may return to your seat.

18 MR. NUNZIO: Yes, Your Honor.

19 THE COURT: Mr. Castle, on behalf of the government,  
20 please.

21 MR. CASTLE: Thank you, Your Honor. You know, as a  
22 general matter, as the Court has identified, the gravity of  
23 this crime speaks for itself. However, because Mr. Batt  
24 believes that leniency is warranted, that a downward variance  
25 would be appropriate, I feel compelled to highlight to the

1 Court a few specific observations.

2 First, in response to Mr. Nunzio's comments and Mr.  
3 Batt's remarks, however horrific this conduct was, there is a  
4 rational explanation for it. Rational explanation is that Mr.  
5 Batt has a sexual attraction to children, that he had access  
6 to two vulnerable victims, his own two daughters, and that he  
7 took opportunity -- took advantage of that access to abuse  
8 them.

9 A few comments from the record we have, from the PSR.  
10 What we see from the pre-sentence report and even from the  
11 letters of support that were filed on Mr. Batt's behalf is  
12 that Mr. Batt's daughters were especially trusting of and  
13 reliant on him. Mr. Batt emphasized in his statements to the  
14 probation officer that his children are his proudest  
15 accomplishment, and nearly all of Mr. Batt's supporters in  
16 their letters to the Court commented on his relationship with  
17 his daughters, and they variously remarked on how much  
18 responsibility he held for them and that they trusted and  
19 relied on him. One letter described them as devoted to him.  
20 The notion, however, that, as Mr. Batt just suggested to the  
21 Court, stepping back and taking a holistic view, that Mr. Batt  
22 is a loving father is, quite frankly, absurd.

23 The second observation I would point out is that Mr.  
24 Batt physically abused his daughters. First, although his  
25 daughters did not report abuse and investigators did not find

1 evidence of it, he explained to the undercover detective who  
2 he thought was another person who had a sexual interest in  
3 children that he abused his children sneakingly and carefully.  
4 He disguised it as play or as cleaning so as to avoid  
5 detection from his wife and others. He later retracted that  
6 admission, but as quoted in the pre-sentence report, he  
7 described what he did in graphic detail, and he created child  
8 pornography of his children and distributed it, and he has  
9 admitted and there's no objection to the pre-sentence report  
10 scoring for sexual contact.

11 We don't know how much of what he described is  
12 fantasy and how much of it is real, but we know the nature of  
13 what he did and we know that there is no -- no objection to  
14 that on Mr. Batt's behalf today.

15 Next, Mr. Batt worked in IT in a public school, and  
16 in his statements to investigators he made a reference to  
17 viewing child pornography in investigations in that context,  
18 so even in his profession he held a position of public trust  
19 that he evidently used as a means of viewing child  
20 pornography, which is especially concerning.

21 Next, Mr. Batt worked as a private IT consultant, and  
22 he acknowledged obtaining child pornography from clients'  
23 computers, presumably instead of reporting them to law  
24 enforcement, another huge concern and distinguishing factor in  
25 this case.

1                   Finally, the government would ask the Court to  
2 consider the broader range of victims in this case even beyond  
3 Mr. Batt's daughters, including his ex-wife, his ex-wife's  
4 family of which a member is here today, Mr. Batt's own family,  
5 everybody in the lives of these little girls who love them and  
6 who have been affected by this so significantly. Even beyond  
7 those victims, Mr. Batt had amassed an absolutely massive  
8 collection of child pornography, and the restitution requests  
9 in this case are from victims of that relevant conduct. As  
10 the Court knows, there's not a restitution request from his  
11 victims of the charged offense. Tens of thousands of files  
12 that he maintained on an encrypted drive. As he explained to  
13 the undercover investigator, it required technical know-how to  
14 secretly amass and store that collection, and he offered to  
15 advise the undercover detective on how he, too, could become a  
16 more sophisticated collector and consumer of child  
17 pornography, and so for these reasons the government opposes  
18 defendant's request for a downward variance.

19                   THE COURT: Thank you, Mr. Castle.

20                   Well, the guidelines are generally advisory, but not  
21 completely in this case because there is the mandatory 15-year  
22 minimum sentence of confinement, but in any event, I do have  
23 to consider those guidelines in reaching a sentence which  
24 reflects my duty to impose a sentence which is sufficient but  
25 not greater than necessary to comply with the purposes of

1                   Section 3553(a) .

2                   Now, the statute starts off instructing the Court to  
3                   consider the nature and circumstances of the offense and the  
4                   seriousness of the offense, and I think I've already explained  
5                   what I think the seriousness of the offense is. The sexual  
6                   exploitation of defendant's two young daughters is pretty much  
7                   off the scale in terms of seriousness, and in addition,  
8                   particularly with regard to Count 2, which is going to be  
9                   dismissed by the government, but, nevertheless, I can  
10                  consider, but under Count 2 it's clear that Mr. Batt  
11                  distributed other photographs other than the two of his 3-year  
12                  old daughter.

13                  The history and characteristics of the defendant.  
14                  Mr. Batt shows us that he's 36 years old, he's now divorced as  
15                  a result of this offense. His two young daughters are the  
16                  primary victims in this case. He's well educated. He has a  
17                  large and very supportive family. I didn't count the letters  
18                  but there are a lot of letters from his siblings, his parents,  
19                  his grandmother which give a picture that is not at all  
20                  compatible with the actions and, in fact, the words of Mr.  
21                  Batt. As Mr. Castle indicated, the prehearing report cites  
22                  and quotes things that Mr. Batt said to others with regard to  
23                  his activities, but his family knows him in a much different  
24                  context, and I imagine that it was -- maybe not, but I imagine  
25                  it was pretty difficult to carry out that picture of a family

1                   oriented person who cared greatly for his family members, who  
2                   was a great helpmate to his siblings, his grandmother who  
3                   was -- who she saw as a great father, to maintain that --  
4                   maybe that was the fantasy, but to maintain that picture while  
5                   carrying out these very -- unacceptable is hardly the word --  
6                   offenses for which he has plead guilty.

7                   The purposes of sentencing certainly are all in play  
8                   in this case. Punishment, respect for the law, perhaps most  
9                   importantly specific deterrence to criminal conduct,  
10                  protection of the public, although as pointed out by Mr.  
11                  Castle, in the additional areas for assessment there is a  
12                  recognition of the much broader victimization that takes place  
13                  as a result of the collection and distribution and, in this  
14                  case, manufacture of child pornography, and I cannot emphasize  
15                  enough to all of you who are here just how awful child  
16                  pornography can be. In my role I sometimes have to look at it  
17                  myself, and it is not anything that any of you want to  
18                  experience. And Mr. Batt, as noted, had an extensive  
19                  collection of this kind of photography.

20                  Now, one of the factors involved in the statutory  
21                  requirements is to find out whether the defendant needs  
22                  medical, educational, or correctional treatment. Certainly  
23                  correctional treatment, but I think also he's correct that to  
24                  provide him with some way to understand and correct the kinds  
25                  of impulses that led him to do what he did.

1                   The final thing under the statute, the statute says  
2 we want to avoid unwarranted disparities, and I don't think  
3 that really comes into play here. I think in general the  
4 sentences that are meted out for this kind of behavior are  
5 certainly within the realm of what the guidelines call for.

6                   Now, Mr. Nunzio, the good lawyer that he is, makes a  
7 very strong argument, strong in the sense that I think it  
8 really covers the bases in terms of what factors should be  
9 considered in granting a variance, but to say that Mr. Batt  
10 knows he needs mental health treatment, he's empathetic, he  
11 has been a good brother to his younger siblings and to his  
12 extended family, that he was a good dad to his daughters, and,  
13 you know, that comes through in terms of everything other than  
14 the most important thing which is what he did to them. That  
15 he's had mental health and -- problems and poor coping  
16 mechanisms, that he now understands how grave his crime was  
17 and in particular the contribution to the child pornography  
18 industry. He's remorseful, not violent. His images didn't  
19 depict violence or sexual penetration. He's lost everything,  
20 and that he can be rehabilitated. And that remains to be  
21 seen, but none of that, I think, puts a dent in the magnitude  
22 of the offense that has been committed here, so I decline to  
23 grant a variance on Mr. Nunzio's argument, as careful as it  
24 is, and pursuant to the Sentencing Reform Act of 1984, it is  
25 my sentence that Mr. Batt serve 360 months incarceration to be

1 followed by 10 years of supervised release subject to the  
2 standard conditions of reporting and remaining law abiding.

3 Now, before our hearing this morning we provided Mr.  
4 Batt and Mr. Nunzio with an order regarding additional  
5 sentencing conditions. Both of them have signed that order  
6 indicating they've reviewed it and understand it, and I am  
7 signing that order for entry right now.

8 The fine in this case is waived. I do order the  
9 mandatory special assessment -- well, first of all,  
10 restitution. Mr. Castle, am I correct that the \$19,000 is all  
11 of the restitution that the U.S. Attorney's Office is aware of  
12 being requested?

13 MR. CASTLE: Yes, Your Honor.

14 THE COURT: Okay. I order the \$19,000 requested  
15 restitution.

16 I also order the mandatory special assessment of \$100  
17 as well as an assessment of \$5,000 under the Justice for  
18 Victims of Trafficking Act and \$10,000 under the Child  
19 Pornography Victim Assistance Act.

20 I will make the following recommendations to the  
21 Bureau of Prisons. First, for educational and vocational  
22 programming. Second, for mental health evaluation and  
23 treatment as indicated. Third, for sex offender programming,  
24 and, finally, Mr. Nunzio, does your client have a specific  
25 request with regard to placement?

1                   MR. NUNZIO: Yes, Your Honor. If the Court could  
2 make a local placement here to the state of Michigan, either  
3 in Indiana or Ohio, I think those are the closest, Your Honor.

4                   THE COURT: Okay.

5                   MR. NUNZIO: Thank you.

6                   THE COURT: Understanding that it is the final  
7 responsibility of the Bureau of Prisons to determine  
8 placement, but I can make a recommendation to the extent they  
9 may follow it or not.

10                  Mr. Castle, does the government move to dismiss Count  
11 2 of the indictment?

12                  MR. CASTLE: Yes, Your Honor.

13                  THE COURT: That is granted. There was a preliminary  
14 order of forfeiture entered on July 31, 2023. Do we  
15 anticipate a final order at some point?

16                  MR. CASTLE: We will submit one, Your Honor.

17                  THE COURT: Thank you. Are there any legal  
18 objections to the sentence which I've just imposed; that is,  
19 is there any reason that's not already on the record why  
20 sentence should not be imposed as indicated. Mr. Castle?

21                  MR. CASTLE: No, Your Honor.

22                  THE COURT: Mr. Nunzio?

23                  MR. NUNZIO: We have none. Thank you.

24                  THE COURT: Thank you. Mr. Batt, we need to talk  
25 about your appellate rights. You do have the right to appeal

1 my sentence, and there are two things that you need to know  
2 about that and to take away from this hearing. The first is  
3 that there's going to be an order entered on my sentence which  
4 I just announced, and that will happen today, and that event  
5 starts a 14-day period running. Now, what that means is that  
6 in the next 14 days you have to decide whether you want to  
7 appeal my sentence. You need to talk to Mr. Nunzio about  
8 that. He can tell you what your options are. He can tell you  
9 what the potential consequences are, and I'm sure he can  
10 answer any of your questions, but the important thing, the  
11 bottom line is that it's your responsibility to let him know  
12 within 14 days if you want to pursue an appeal so he can do  
13 what's necessary to make sure that happens.

14 The second thing you need to know is that in the  
15 event you do wish to appeal, Mr. Nunzio will continue to  
16 represent you. Do you understand that?

17 THE DEFENDANT: Yes.

18 THE COURT: Okay. Is there is anything else, Mr.  
19 Castle?

20 MR. CASTLE: Nothing more from the government, Your  
21 Honor.

22 THE COURT: Mr. Nunzio?

23 MR. NUNZIO: Your Honor, I don't know if this is an  
24 appropriate time to bring this up, but counsel is going to be  
25 unavailable starting tonight for the next 14 days,

1       unfortunately. I finish up the last of the cases involving  
2       the plot to kidnap and kill the governor of the state of  
3       Michigan up in Antrim County. I know Mr. Batt is indigent at  
4       this point in time, and I don't know if it's appropriate or  
5       not and certainly will let counsel know, but at this point in  
6       time for purposes of him to have a good discussion with a  
7       lawyer regarding his appellate avenue, we'd ask the Court to  
8       appoint him other counsel because I'm going to be unavailable.  
9       I'm due up in Antrim starting tomorrow morning, and I'm not  
10      going to be available, and I don't know if this is  
11      appropriate. Forgive me if it's not.

12                   THE COURT: Well, it's as good a time as any. We  
13      will refer it to the magistrate judge to take the information  
14      about indigency and, if necessary, to appoint counsel.

15                   MR. NUNZIO: Thank you very much, Your Honor. I'm  
16      sorry to bring it up at this point in time.

17                   THE COURT: No problem.

18                   Okay. That all being said, nothing further to put on  
19      the record here. Mr. Batt is remanded to the custody of the  
20      federal marshal, and we're adjourned.

21                   THE CLERK: All rise, please. Court is now  
22      adjourned.

23                   *(Whereupon, hearing concluded at 11:47 a.m.)*

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*REPORTER'S CERTIFICATE*

3 I, Genevieve A. Hamlin, Official Court Reporter  
4 for the United States District Court for the Western District  
5 of Michigan, appointed pursuant to the provisions of Title  
6 28, United States Code, Section 753, do hereby certify that  
7 the foregoing is a full, true and correct transcript of the  
8 proceedings had in the within entitled and numbered cause on  
9 the date hereinbefore set forth; and I do further certify  
10 that the foregoing transcript has been prepared by me or  
11 under my direction.

/s/ Genevieve A. Hamlin

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